

## OCCUPATIONAL HEALTH AND SAFETY ISSUES IN VICTORIAN CONSTRUCTION INDUSTRY, AUSTRALIA

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**ABSTRACT:** The construction industry has one of the highest injury ratios of all Australian industries. Individuals employed on the construction industries find themselves confronted with dangerous and life-threatening work conditions. However, it appears that the trend in Occupational Health and Safety (OHS) performance of construction industry has improved consistently compared with the other industries. The enforcement of OHS law and regulation, and the outcome of authority function to assist and promote health, safety education and training are the significant factors for the improvement of safety performance in construction industry.

**Keywords:** construction, safety, accident.

### INTRODUCTION

The construction industry is highly competitive so that principal contractors are willing to award contracts to subcontractors with poor or untested safety practices. Once the subcontractors have started work on the site, unrealistic progress programs are then enforced on them. This situation creates a culture where the objective of many contractors is to get the job finished as quickly as possible and move on to the next project. Safe work practices are commonly being seen as time-consuming, costly, and something that slows down the work

A number of factors have contributed to the poor Occupational Health and Safety (OHS) performance in the construction industry, such as the nature of the work conducted that is potentially high-risk hazards; the willingness of some principal contractors to award tenders to subcontractors who have poor OHS practices; time pressures to complete jobs; inadequate systems and resources for managing OHS risks in some contractors; and lack of understanding of OHS legal obligations to contractors (Durham 2002, Frick 2004, Meerman 2004).

Related to the risks in Victorian construction industry, study by Larsson and Field (2000) found that construction workers have the higher incidence of injury among the other industries. Falls from roof, ladders and scaffolding represent the most prominent accidents at work. Injuries sustained in contact with powertools, machinery, handtools, vehicle, and material are also very severe. Furthermore,

McWilliams (2001) identified occupational groups and the matching hazards for each group. From an analysis of these occupations the direct causes were identified. For example, the risk of fall from heights to bricklayers was related to non-compliant scaffolds while for painters the risk resulted from hazardous work performed on ladders.

### LEGAL AND REGULATORY FRAMEWORK OF OHS IN VICTORIA

Legislation simply sets up a framework of enforceable rules for a system. It provides no guarantee of success. No piece of paper, even an Act of Parliament, has ever prevented an injury. Positive outcomes in this area, measured by features such as reduced incidence and severity of occupational trauma and illness, are dependent upon a numerous of factors. Many of these factors (such as quality of leadership and management, organizational morale, innovation) are highly intangible and resistant to quantitative assessment.

However, legislation is important as a point of reference for both regulators and the regulated. For the regulators, it serves as an enabling mechanism that provides authority, and sometimes guidance, to system actors charged with a duty of improvement and similar authority, and usually sanctioning weapons, to those system actors vested with the responsibility of compliance with statutorily articulated standards and norms. For the regulated, legislation sets out the nature

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and standards of expected conduct and, often more importantly, proscribed conduct.

Currently, the principal occupational health and safety statute in Victoria is the Occupational Health and Safety Act 2004, which repeals the Occupational Health and Safety Act 1985. For the most part, regulations under the Victorian OHS Act impose more particular duties in relation to specific type of hazard. OHS Act is premised on the notion that occupational safety should be self-regulating, that is to say employers should comply with the regulations because of self-interest rather than official sanction. Those who create the risks and those who work with them should play the pivotal role in the consultative, co-operative and participative process in ensuring that workplaces do not marginalise health and safety.

One of the most critical areas of reform for OHS Act is the provision of entry permit for formal employee organisation in the workplace in certain circumstances. The Act establishes a regime under which such an officer or employee of a union may apply to the Magistrates' Court for an entry permit and then, in tightly controlled circumstances, gain access to workplaces for the purpose of inquiring into a suspected (specified) contravention of the Act or the regulations. This provision ignited a disagreement between unions and employer groups. Employers argued that industrial relations environment and the management of OHS cannot be mixed. On the other hand, unions argued that their activity in the area OHS has a positive effect upon safety performance in industry generally. (CCF 2002, CFMEU 2002, Australian Financial Review 7 April 2004, The Age 16 November 2004,).

Under the Occupational Health and Safety Act 1985 (old Act), approved Codes of Practice were made to help people who have duties or obligations under Victoria's health and safety laws. At present, there are 19 Codes of Practice approved in Victoria. A Code of Practice provides practical but not mandatory guidance. Codes of Practice do not have the same force of law as a Regulation. However, failure to follow a relevant code may be used as evidence to support prosecution. A Code of Practice can achieve legal status if adopted by a regulation (Workplace Safety Australia, 2003).

Most of these acts, regulations and codes require the contractor to identify hazards, and then to assess and control the identified risks. They provide guidance as the types of control mechanisms that might be chosen by the contractor. However, many medium and smaller contractors have expressed major problems with the regulations that they are too complex and many of the current codes of practice require updating.

Consequently, small and medium-size contractors still tend to rely on inspectors to tell them what to do (Johnstone 1999, Frick 2004). Royal commissioner Terence H. Cole stated that numerous laws, standard and codes of practice covering health and safety left employers and unions dissatisfied with the effectiveness of the existing legislative framework (The Age 7 May 2002). This situation was also expressed by Michael Hammond who specialises in OHS law. He revealed, "*Occupational health and safety regulation is a nightmare for small and medium-size businesses. Are they really suggesting you know it all? I can't even know it all. With regulation so complicated and voluminous, some business advisers say many proprietors ignore it and hope it will not become a problem*" (Business Review Weekly 27 May 2004).

At the moment, the legislative framework makes it difficult for contractors to work in various states due to the fact that the legislation changes from state to state. Additionally to the legislative framework in Victoria, there are other laws that require plumbers and electricians to be licensed or registered (Durham et al. 2002)

## RELATIONSHIP BETWEEN POLICY AND THE OHS OUTCOMES

A research project commissioned by the Health and Safety Executive (HSE) UK examined the factors that influenced injury outcomes. A broad range of consultation was undertaken in the study to test various hypotheses about management of risk (Brabazon 2000). In summary the study found that the construction specific regulations are believed to have had a positive impact.

In addition, the HSE completed a review of the evidence of the impact of their work, including the development and management of health and safety regulation. The chain of impact model is shown over (Figure 1). The review concluded that whilst there is some evidence to show that the HSE does positively influence (aspects of) the chain of impact that can lead to improvements in health and safety outcomes (e.g. workplace behaviour) there is very little documentary evidence on outcomes. The study found it difficult to draw conclusions about the "soft" interventions such as education and information but did draw some conclusions about "hard" interventions such as legislation and enforcement (Hillage J., et al. 2001). The study revealed that:

- Legislation and associated guidance is a major form of leverage over employers in terms of bringing about change in their health and safety policies and practices. Most employers are motivated to change their practices to comply with the law.
- Awareness of the legislation is a key initiator of action. Not surprisingly, the evidence suggests that the more aware employers are of a piece of legislation, the more likely they are to put in place relevant control measures.

## OHS PERFORMANCE IN VICTORIA

Between 1994/1995 and 2003/2004, the construction industry remains among the five most hazardous industries in Victoria. A number of factors have contributed to the poor OHS performance in the construction industry, such as the nature of the work conducted that is potentially high-risk hazards; the willingness of some principal contractors to award tenders to subcontractors who have poor OHS practices; time pressures to complete jobs; inadequate systems and resources for managing OHS risks in some contractors; and lack of understanding of OHS legal obligations to contractors (Durham 2002, Frick 2004, Meerman 2004).

However, there has been a consistent improvement of safety and health performance in Victorian construction industry during the study period. It seems that the enforcement of OHS law and legislation, and function of the authority to assist and promote health, safety education and training are the significant factors that drive this outcome. Study by Hillage et al. (2001) in UK revealed that OHS legislations and the intervention of the authority have had positive impact to the improvement of safety culture. Nevertheless, the overabundance of OHS laws in Australia raises a question that to what extent the effectiveness of the existing legislative framework had impact to the improvement of safety culture. Further research is needed to answer this question.

Efforts to lower both the fatal and non-fatal injury rate in the construction industry are ongoing in all part of Australia and Victoria in particular. For example, NOHSC's National OHS strategy 2002-2012 sets out two national targets to: (1) sustain a significant, continual reduction in the incidence of work-related fatalities with a reduction of at least 20% by 30 June 2012 and; (2) reduce the incidence of workplace injury by at least 40% by 30 June 2012 (NOHSC 2002). The Falls Prevention in Construction: A Joint Compliance Project aimed to reduce the underlying causes of death and serious injuries to construction workers. This

project was coordinated by WorkSafe Victoria's Construction & Utilities Program and involved all state and territory workplace safety authorities (WorkSafe Victoria 2005).

## CONCLUSION

Significant health and safety hazards in the industry and the culture that is not adjusted to effective management of workplace health and safety risks are the major reason, which drives the poor performance in this industry. However, comparison with the other major industries indicates that the safety and health of the construction industry has improved consistently.

Occupational health and safety in the construction industry is difficult to manage as the environment is constantly changing. Proactive companies continue to spend time, money and resources updating their OHS management systems and have to compete for work with companies that have no OHS management systems. As there is some evidence to suggest that the application of effective management systems in the building and construction industry can lead to a reduced incidence of injury and disease, there should be a legal requirement in Victoria for all employers to develop and implement an OHS management system.

The enforcement of OHS law and regulation, and the outcome of authority function to assist and promote health, safety education and training are the significant factor for the improvement of safety performance in construction industry. It can be shown from the decline of the incidence rate, where the probability of accident occurrence has been reduced although the economic activity in construction industry increased during the last decade.

As technology progresses and work practices change, the number of codes of practice, regulations and Australian standards will continue to grow. Therefore, it is imperative that contractors produce some evidence that they are working in line with current legislation. Preference should be given to those contractors with an OHS management systems and a proven safety record when they tender for work.

The common factors and circumstances associated with many fatal incidents in the construction industry over a decade provide a focus for strategies aimed at preventing further fatal incidents. Focusing on the most prominent injury mechanism, that is falls from a height, the prevention efforts should be directed towards developing improved scaffolding solution and better fall prevention techniques and equipment.

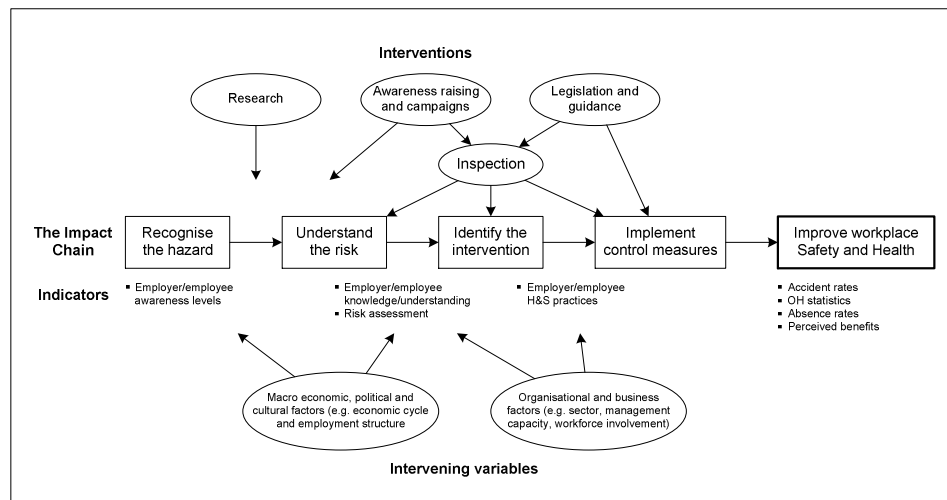


Fig 1. Interventions network model

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